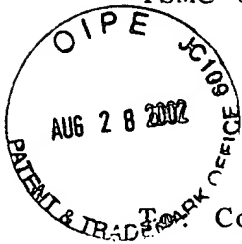


TSMC-00-563



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#5/election
2823 8/10/02
18

August 20, 2002

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Attn: Art Unit 2823 - Neal Berezny

From: George O. Saile, Reg. No. 19,572

20 McIntosh Drive

Poughkeepsie, N. Y., 12603

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TECHNOLOGY CENTER 2800

Subject: | Serial No.: 09/863,224 05/24/01 |

Ming-Hsing Tsai et al.

METHOD TO SOLVE VIA POISONING FOR
POROUS LOW-K DIELECTRIC

|_ Art Group: 2823 Neal Berezny _|

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Restriction or Election
Requirement in the Office Action dated 07/30/02. In that
Office Action, restriction was required to one of two stated

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being
deposited with the United States Postal Service as first class
mail in an envelope addressed to: Commissioner of Patents and
Trademarks, Washington, D.C. 20231, on August 20, 2002.

George O. Saile, Reg.# 19572

Signature/Date

George O. Saile 8/20/02

Inventions under 35 U.S.C. 121. The Inventions stated are Group I - Claims 1-30 to a process, classified in Class 438, subclass 627 and Group II - Claims 31-33 to a damascene structure having a via, classified in Class 257, subclass 751.

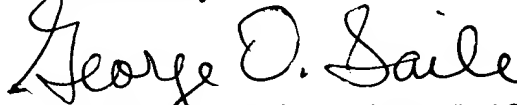
Applicant provisionally elects to be examined the Invention described by the Examiner as Group I - Claims 1-30 drawn to a process classified in Class 438, subclass 627. This election is made with traverse of the requirement under 37 C.F.R.1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction given in the Office Action. The Examiner gives the reason for the distinctness of the two inventions as (1) that the process as claimed can be used to make other and materially different products or (2) that the product as claimed can be made by another and materially different process (MPEP 806.05(f)). However, upon reading the product Claims against the process Claims one can readily see that the product Claims are directed to "a damascene structure with a protection layer for low-k materials" and the process Claims are directed to "a method to solve via poisoning for insulative porous low-k materials, it is necessary to obtain claims in both the product and method claim language. The method Claims necessarily use the product and vice versa. The field of search must necessarily cover both the method

class/subclass 257/751 and products class 438/627 in addition to other related Classes and subclasses to provide a complete and adequate search. The fields of search for the Group I and Group II inventions are clearly and necessarily co-extensive. The Examiner's suggestion that "In the instant case, the damascene structure as claimed can be made by another and materially different process by depositing a single thick insulating layer without an etch stop, perform a short timed partial etch, after patterning with the first resist mask, then perform a second masking and etching step to form the lower via", is very speculative and really has nothing to do with the Claims as presented in this Patent Application. Further, it is respectfully suggested that these reasons are insufficient to place the additional cost of a second Patent Application upon the Applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Withdrawal of the Restriction Requirement and the Allowance of the present Patent Application is requested.

Sincerely,

A handwritten signature in cursive script that reads "George O. Saile". The signature is written in dark ink and is positioned above the printed name.

George O. Saile, Reg.# 19572